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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/065,760      | 11/15/2002  | Steven J. Wyse       | 33054               | 9199             |

23589 7590 09/16/2003

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EXAMINER

CHIN SHUE, ALVIN C

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/065,760

Applicant(s)

WYSE, STEVEN J.

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-11 and 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This application contains claims directed to the following patentably distinct species of the claimed invention: claims 5,12, and 6,7,13,14.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-4,8-11 and 15-18 generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with attorney Colombo on 8.25.03 a provisional election was made with traverse to prosecute the invention of specie II, claims 6,7,13,14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5 and 12 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3,6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gregory. Gregory shows slotted bearing surfaces at 9 defined by web 12 and flange 6. Element 5 is considered to be a sidewall as set forth in claims 6 and 7.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory in view of Schwoerer. Gregory shows the claimed scaffolding with the exception of the claimed attachment of the ledger to the post. Schwoerer shows a flange 14 and post 11 connected as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gregory to comprise an attachment as claimed to enable a positive attachment to the post.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gregory in view of Krause. Gregory shows the claimed scaffolding with the exception of the sidewall-coupling element. Krause shows a walk board having a sidewall 32 with coupling elements. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gregory to comprise a walk board with sidewall coupling elements for securing his board to the ledger.

Claims 1,8-11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Brown. Roberts shows the claimed

scaffolding with the exception of the (orthogonal shaped, as set forth in claim 8) slot. Brown shows a plank support with slot at 24 for receiving a bolt. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roberts to comprise slot-receiving boltholes to enable adjustable positioning of his bolts in the ledger 13. With respect to claim 8, the slot with its edges parallel to the axis of the ledger and at the bottom surface of the ledger is deemed to be recessed edges.

Claims 2,3,15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts and Brown as applied to claims 1 and 8 above, and further in view of Heath. Heath shows a standing board support ledger of a channel construction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roberts for his ledger to be channel shaped as a reinforcing means for his ledger.

Claims 8 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over French pat. '115 to Jean in view of Brown. Jean shows the claimed scaffolding with the exception of the slot. Brown shows a plank support with slot at 24 for receiving a coupling. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Jean to comprise slots to enable adjustable positioning of his coupling portion 18 in the

Art Unit: 3634

ledger. With respect to claim 8, the slot with its edges parallel to the axis of the ledger and at the bottom surface of the ledger is deemed to be recessed edges.


Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jean and Brown as applied to claim 8 above, and further in view of Heath as applied above.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jean, Brown and Heath as applied to claim 16 above, and further in view of Schwoerer as applied above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-3008-1113.



Alvin Chin-Shue  
Primary Examiner